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ILLINOIS COMMERCE COMMISSION
STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

ORIGINAL
ILLINOIS
COMMERCE COMMISSION
JAN 20 12 59 PM '03
CHIEF CLERK'S OFFICE

ILLINOIS POWER COMPANY)
)
Complainant-Counter Respondent,)
)
v.)
)
M.J.M. ELECTRIC COOPERATIVE,)
INC., an Illinois not for profit corporation.)
)
Respondent-Counter Complainant.)

DOCKET NO. 00-0382

COUNTER COMPLAINT

M.J.M. ELECTRIC COOPERATIVE, INC., an Illinois not for profit corporation,
Respondent-Counter Complainant, (MJM) by its attorneys LEE J. PLUMMER and
GROSBOLL, BECKER, TICE & REIF, Jerry Tice of Counsel, pursuant to the Electric
Supplier Act 220 ILCS 30/1 et. seq., files its Counter Complaint against ILLINOIS POWER
COMPANY, Complainant-Counter Respondent (IP) and states as follows:

COUNT I

M.J.M. Electric Cooperative, Inc., Respondent-Counter Complainant (MJM) for a
Counter Complaint against Illinois Power Company, Complainant-Counter Respondent (IP)
based upon Section 6 of the Electric Supplier Act 220 ILCS 30/6 states as follows:

1. MJM is an Illinois general not-for-profit corporation engaged in the business of sale and distribution of electric energy in the State of Illinois and is an electric supplier within the meaning of the Act.
2. IP is an Illinois corporation engaged in the business of generation, transmission, distribution and sale of electric energy in the State of Illinois and is an electric supplier within the meaning of the Act.

3. Pursuant to the provisions of Section 6 of the Act, MJM and IP entered into a Service Area Agreement dated March 18, 1971 which defines and delineates between themselves one or more service areas in which each of the contracting electric suppliers are entitled to furnish electric service to customers (Agreement) a copy of such Agreement being attached as Exhibit 1 to the Complaint filed herein by IP.

4. Such Agreement was approved by the Illinois Commerce Commission (Commission) by an Order dated August 4, 1971, a copy of which is attached as Exhibit 2 to the Complaint filed herein by IP.

5. The boundary line map established by the Agreement for the Brighton area and attached as Exhibit 3 to the Complaint filed herein by IP does not correctly disclose the boundary line recognized and utilized by MJM and IP since approval of the Service Area Agreement on August 4, 1971. Such boundary line was placed at the location depicted on the territorial map as shown by Exhibit 3 attached to IP's Complaint by mutual mistake of MJM and IP. Instead the boundary line utilized and recognized by MJM and IP lies immediately east of and parallels on a north south line the July 2, 1965 existing distribution line of MJM which is located 660 feet more or less due east of the purported territorial line shown on the map marked Exhibit 3 and attached to IP's Complaint filed herein. The true territorial boundary line between MJM and IP as the same exists in the South Half of the Northeast Quarter of said Section 13 and the Southeast Quarter of said Section 13, Township 7 North, Range 10 West of the Third Principal Meridian, Piasa Township, Jersey County, Illinois as recognized and utilized by MJM and IP since the Agreement of March 18, 1971 is depicted on the map prepared by MJM and attached to this Counter Complaint as Exhibit 1 and by reference duly incorporated herein.

6. MJM is providing electric service to the following customers identified in the Complaint of IP as follows:

- A. Bruce Hanold connected 4-28-93
- B. Bruce Hanold connected 12-30-55
- C. Jim Rathgeb connected 5-16-40
- D. Jim Rathgeb connected 12-12-84
- E. Jim (Schancks) Shank 9-26-95 (released by IP to MJM on or about 8-17-95)
- F. Chuck DeProw connected 4-9-96
- G. John Ross connected 7-1-61
- H. Tri-Cor Excavating (John Ross) connected 5-25-78
- I. Dennis Lucker connected 2-24-60
- J. June Lucker connected 5-4-94 (split service from (I))

Each of the foregoing customers are identified on the attached Exhibit 1 by the letter corresponding with the name of the customer.

7. In addition there are three other customers served by MJM identified on Exhibit 3 attached hereto and by reference incorporated herein to which MJM provides electric service and which are identified as follows:

- K. Loren Kelly connected 1960;
- L. Perry Houchens connected 1973;
- M. Allen McAfee connected 1962.

8. The customer Jim Shank identified as letter E on Exhibit 1 is located on the IP side of the territorial boundary line recognized and utilized by MJM and IP but such customer was released by IP to MJM on or about August 17, 1995 pursuant to an Agreement between IP and

MJM and MJM has provided electric service to such customer continuously since on or about September 26, 1995.

9. MJM has provided electric service to the customer identified as June Lucker on Exhibit 1 attached hereto since on or about May 4, 1994 as a result of a trade by MJM of service to Ron Heflin to IP in return for IP's trade of the customer June Lucker to MJM.

10. The claim by IP that it has the right to serve the customers identified in the Complaint of IP violates the terms and conditions of the Agreement between MJM and IP as the territorial boundary line delineating the service area for MJM in Section 13 of Piasa Township, Jersey County, Illinois has been recognized and utilized by MJM and IP since the inception of the Agreement.

11. With respect to each of the ten customers made the subject of the IP Complaint and the customers identified in paragraph 7 of this Counter Complaint, IP has waived any right under the Agreement to serve such customers for the reason that IP has failed to object thereto and has acquiesced in and authorized such electric service by MJM to each of the foregoing described customers for the periods of time commencing with the date of such electric service until the date of filing of the Complaint herein by IP. Such actions by IP constitute a waiver of any claimed contractual rights under the Agreement by IP to serve any of the foregoing described customers in the area identified on Exhibit 1 attached hereto and by reference incorporated herein.

12. IP is barred from claiming the right to provide electric service to any of the customers made the subject of the IP Complaint herein and this Counter Complaint for the reason that IP has failed to file a complaint with the Commission within 18 months after MJM commenced providing electric service to any of such customers as required by Section 7 of the

Act (220 ILCS 30/7) and therefore MJM has the right to provide electric service pursuant to the terms of the Agreement and the Act.

13. Inasmuch as MJM and IP have recognized and utilized a territorial boundary line in the said Section 13 of Piasa Township, Jersey County, Illinois that is located 660 feet more or less east of the territorial boundary line reflected on the Exhibit 3, attached to the Complaint of IP herein, MJM requests the Commission to determine that such boundary line is located as utilized and recognized by MJM and IP in the aforementioned territory.

WHEREFORE, MJM requests the Commission to grant the following relief:

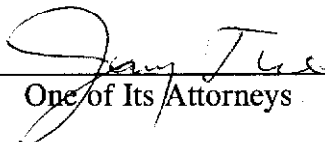
A. To determine that MJM is the electric supplier authorized to provide all electric service to each of the aforementioned customers identified in this Counter Complaint.

B. The proper territorial boundary line delineating the service territories between MJM and IP as established by the March 18, 1971 Agreement as subsequently utilized and recognized by MJM and IP is located approximately 660 feet east of the territorial boundary line identified on the maps filed with the Commission.

C. For such other and further relief as the Commission deems just and proper.

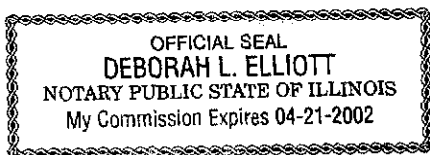
M.J.M. ELECTRIC COOPERATIVE, INC.
Respondent,

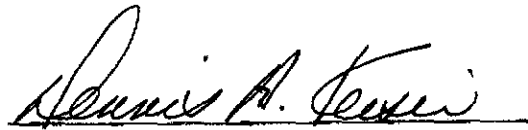
By GROSBOLL, BECKER, TICE & REIF and
LEE J. PLUMMER

By 
One of Its Attorneys

STATE OF ILLINOIS)
 : SS
COUNTY OF MACOUPIN)


DENNIS A. KEISER, General Manger of M.J.M. ELECTRIC COOPERATIVE,
INC., being first duly sworn upon his oath, deposes and states that he is the General Manger
for MJM Electric Cooperative, Inc., in the above entitled cause of action, that he has read the
above and foregoing Counter Complaint by him subscribed and the same is true
in substance and in fact.




Dennis A. Keiser

Subscribed and Sworn to before me this

13th day of October, 2000


Notary Public

GROSBOLL, BECKER, TICE & REIF

Attorney Jerry Tice

101 E. Douglas

Petersburg, IL 62675

Telephone: 217-632-2282

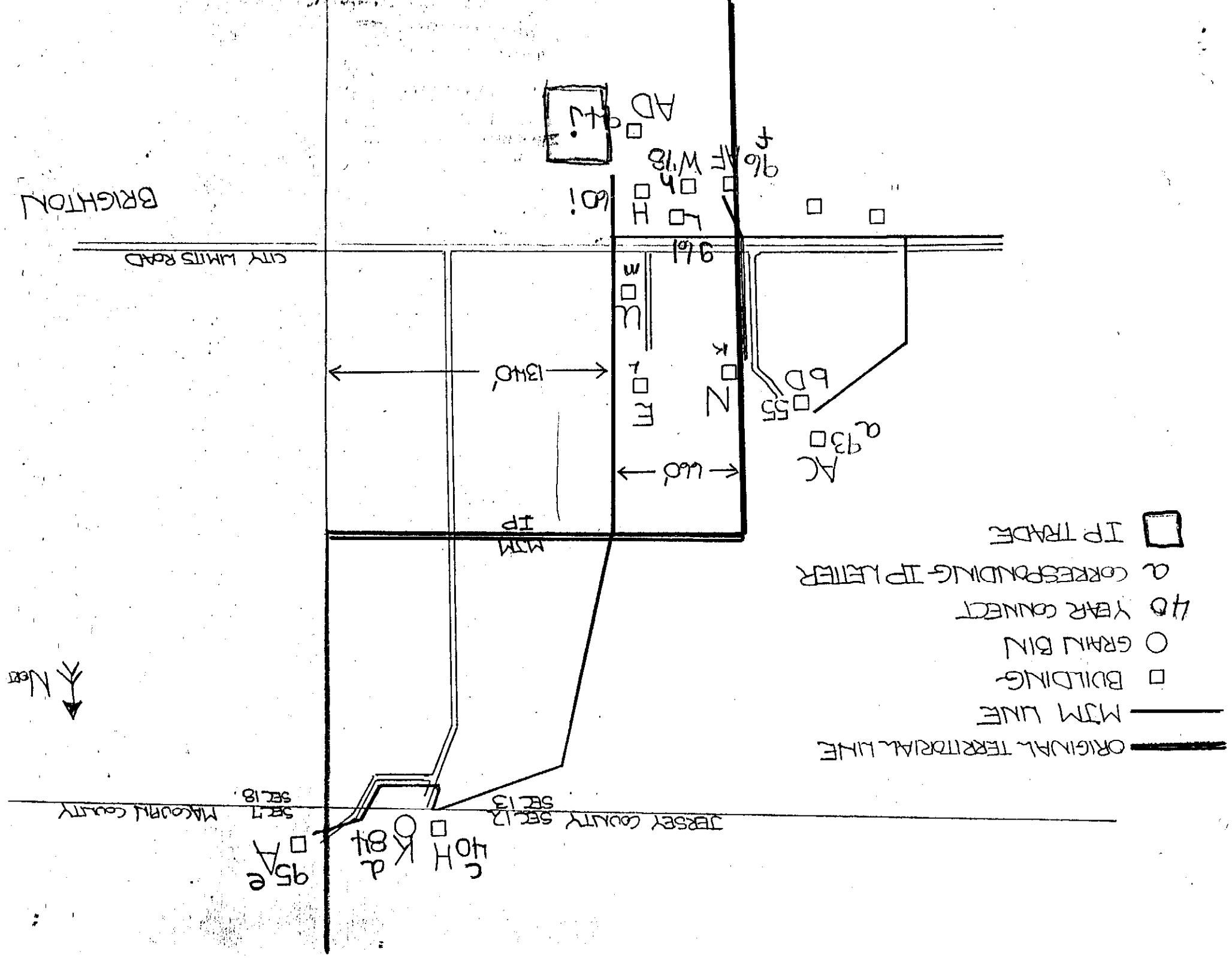
notary public 04/21/00

LEE J. PLUMMER

100 S. State St.

Jerseyville, IL 62052

Telephone: 618-498-5213



BRIGHTON

CITY LIMITS ROAD

AD 94

W18

96 AF

96

AC 93

BD 55

N

100

1340

100

40 H

K 84

95 e

A

SEC. 12

JERSEY COUNTY

SEC. 17

MACOURT COUNTY

SEC. 18

IP TRADE

a CORRESPONDING-IP LETTER

40 YEAR CORRECT

GRAIN BIN

BUILDING

MJM LINE

ORIGINAL TERRITORIAL LINE

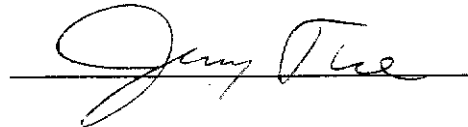


PROOF OF SERVICE

I, JERRY TICE, hereby certify that on the 17th day of October, 2000, I deposited in the United States mail at the post office at Petersburg, Illinois, postage fully paid, a copy of the document attached hereto and incorporated herein, addressed to the following persons at the addresses set opposite their names:

Gregory Q. Hill
Hughes & Hill LLC
160 E. Main St.
Suite 200
P.O. Box 560
Decatur, IL 62525-0560

John Albers
Hearing Examiner
Illinois Commerce Commission
527 E. Capitol
P.O. Box 19280
Springfield, IL 62794-9280

A handwritten signature in cursive script, reading "Jerry Tice", is written over a horizontal line.

GROSBOLL, BECKER, TICE & REIF
Attorney Jerry Tice
101 E. Douglas
Petersburg, IL 62675
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